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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 Sean Ryan,

11 Plaintiff,

12 vs.

13 Jersey Mike's Franchise Systems, et
14 al.,

15 Defendant.

CASE NO. 13cv1427-BEN (JLB)

Order Setting Mandatory Settlement
Conference

[ECF No. 42]

16 The Court hereby SETS a Mandatory Settlement Conference date for this action.
17 A Mandatory Settlement Conference shall be conducted on **December 11, 2014** at
18 **2:30 p.m.** in the Chambers of Magistrate Judge Jill L. Burkhardt, Edward J. Schwartz
19 U.S. Courthouse, 221 West Broadway, Suite 5140, San Diego, California 92101.
20 Pursuant to Judge Burkhardt's Civil Chambers Rules, counsel shall LODGE
21 confidential settlement statements directly with Judge Burkhardt's chambers no later
22 than **December 4, 2014**. Absent good cause, requests for continuances will not be
23 considered unless submitted in writing no less than seven calendar days prior to the
24 scheduled conference. Each party's settlement statement shall set forth the information
25 required by Judge Burkhardt's Civil Chambers Rules (available on the Court's web
26 site). The settlement statements shall not be filed with the Clerk of the Court.

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1 **Personal Appearance of Parties Required:** All parties, adjusters for insured
 2 defendants, and other representatives of a party having full settlement authority as
 3 explained below, and the principal attorneys responsible for the litigation, must be
 4 present **in person** and legally and factually prepared to discuss settlement of the case.
 5 Counsel appearing without their clients (whether or not counsel has been given
 6 settlement authority) will be cause for immediate imposition of sanctions and may also
 7 result in the immediate termination of the conference.

8 Unless there are **extraordinary circumstances**, persons required to attend the
 9 conference pursuant to this Order shall not be excused from personal attendance.
 10 Requests for excuse from attendance for extraordinary circumstances shall be made in
 11 writing at least seven days prior to the conference. Failure to appear at the settlement
 12 conference will be grounds for sanctions.

13 **Full Settlement Authority Required:** In addition to counsel who will try the
 14 case, a party or party representative with full settlement authority must be present for
 15 the conference. In the case of a corporate entity, an authorized representative of the
 16 corporation who is not retained outside counsel must be present and must have
 17 discretionary authority to commit the company to pay an amount up to the amount of
 18 the Plaintiff's prayer (excluding punitive damages prayers). The purpose of this
 19 requirement is to have representatives present who can settle the case during the course
 20 of the conference without consulting a superior.

21 "Full settlement authority" means that the individuals at the settlement
 22 conference must be authorized to explore settlement options fully and to agree at that
 23 time to any settlement terms acceptable to the parties. *Heileman Brewing Co. v. Joseph*
 24 *Oat Corp.*, 871 F.2d 648, 653 (7th Cir. 1989). The individuals need to have "unfettered
 25 discretion and authority" to change the settlement position of a party. *Pitman v.*
 26 *Brinker Int'l, Inc.*, 216 F.R.D. 481, 485-86 (D. Ariz. 2003). The purpose of requiring
 27 a person with unlimited settlement authority to attend the conference contemplates that

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1 the party's view of the case may be altered during the face to face conference. *Id.* at
2 486. A limited or a sum certain of authority is not adequate. *See Nick v. Morgan's*
3 *Foods, Inc.*, 270 F.3d 590, 595-97 (8th Cir. 2001).

4 IT IS SO ORDERED.

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6 DATED: May 8, 2014

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8 JILL L. BURKHARDT
9 United States Magistrate Judge
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